

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: February 19, 2003

Bulk Item: Yes No X

Division: Growth Management

Department: N/A

AGENDA ITEM WORDING:

Presentation of report and discussion of the pros and cons of Monroe County remaining designated as an Area of Critical State Concern.

ITEM BACKGROUND:

At its December meeting, the BOCC requested the Growth Management Division staff to prepare a report on the pros and cons of the County remaining designated as an Area of Critical State Concern. In response, the staff has prepared the report, which it will present to the Board at its February meeting for Board discussion.

PREVIOUS RELEVANT BOARD ACTION:

December 18, 2002, BOCC directed staff to prepare a report on Area of Critical State Concern.

CONTRACT/AGREEMENT CHANGES: N/A

STAFF RECOMMENDATION: N/A

TOTAL COST: N/A

BUDGETED: Yes No N/A

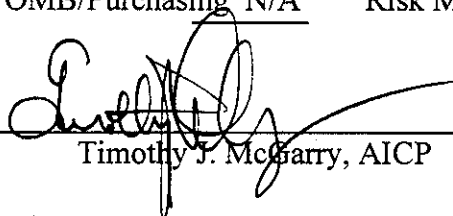
COST TO COUNTY: N/A

SOURCE OF FUNDS: N/A

REVENUE PRODUCING: Yes N/A No **AMOUNT PER MONTH** N/A **YEAR**

APPROVED BY: County Attorney N/A OMB/Purchasing N/A Risk Management N/A

DIVISION DIRECTOR APPROVAL:


Timothy J. McGarry, AICP

DOCUMENTATION: Included X To follow Not Required

DISPOSITION:

AGENDA ITEM #: M3

County of Monroe


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Board of County Commissioners
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Mayor Pro Tem Murray Nelson, District 5
Comm. Charles "Sonny" McCoy, District 3
Comm. George Neugent, District 2
Comm. David Rice, District 4

MEMORANDUM

TO: Board of County Commissioners

FROM: Timothy J. McGarry, AICP
Director of Growth Management 

DATE: February 11, 2003

SUBJECT: **Staff Report on the Pros and Cons of Designation
as An Area of Critical State Concern**

Overview

The Board of County Commissioners requested the Growth Management Division staff to prepare a report on the pros and cons of Monroe County retaining its designation as an Area of Critical State Concern. This report is the response to that Board request.

Purpose and Content

This report presents issues related to the designation of unincorporated Monroe County as an Area of Critical State Concern (ACSC). The pros and cons of Monroe County remaining designated as an ACSC are presented in a short pro and con format followed by a more in-depth discussion. This format allows for quick comparisons between the positive and negative aspects of designation.

Time and staffing constraints did not allow an in-depth comprehensive evaluation of the Key's Area of Critical State Concern designation. Hopefully, the report will serve as starting point for meaningful discussion of the issues involved.

The report is divided into five sections. The first section presents a brief overview of ACSC designation to provide a reference point for understanding the pros and cons of designation. It is followed by a description of the statutory process for removal of the Florida Keys Area of Critical State Concern designation.

In the third section, the pros and cons related to remaining designated are presented under four issue areas. The report's conclusions follow with the Growth Management staff's overall

evaluation of retaining or removing the designation. The report concludes with a recommendation on a possible future course of action to pursue concerning the County's designation status.

Overview of Area of Critical State Concern Designation

Areas of Critical State Concern are established and governed by the general provisions of Section 380.05, Florida Statutes (F.S.). Specific statutory provisions for the Florida Keys Area of Critical State Concern are contained in Section 380.0552, which identifies specific criteria for designation.

An Area of Critical State Concern (ACSC) is established through rulemaking by the Florida Administration Commission (Governor and Cabinet) upon recommendation of the DCA. The initial designation of an ACSC is subject to approval by the Florida Legislature.

In establishing the Florida Keys ACSC, the Florida Legislature memorialized its legislative intent through seven policy statements in Section 380.0552(2), F.S. and 12 Principles for Guiding Development in Section 380.0552(7), F.S. [A copy of Section 380.0552 is attached.] Chapter 380, F.S., requires that any land development regulation or comprehensive plan or amendments to these regulations or plan be consistent with the Principles for Guiding Development in addition to the consistency requirements required of all Florida jurisdictions under Section 163.3194, F.S.

Under Sections 380.05(6) and 380.0552(9), F.S., any comprehensive plan and land development regulations or amendments thereto, enacted, amended, or rescinded by local government must be submitted to the DCA for review and approval or rejection. This approval or rejection is by administrative order. [Note: Non-ACSC jurisdictions are not required to submit their land development regulations to DCA for approval or rejection; however, local land development regulations may be still subject to review under provisions of Section 380.3213, where "substantially affected persons" may petition for review of the regulations by DCA within 12 months of their adoption.]

Once a year, the DCA may recommend to the Administration Commission the enactment, amendment, or rescission of a land development regulation or element of the comprehensive plan. The Administration Commission may reject the recommendation, or accept it with or without modification and adopt it by rule including any changes. This authority to modify local government comprehensive plans and land development regulations by the Administration Commission rulemaking does not extend to non-ACSC jurisdictions. Any rules enacted or proposed by the Administration Commission are subject to challenge under Chapter 120, F.S.

Section 380.07, F.S., requires that all development orders, such as building permits, conditional use orders, re-zonings, plat approvals, etc., be rendered to the DCA for review. The DCA has 45 days to appeal the development order or waive its rights to appeal. Rule 9J-1.002 (3) Florida Administrative Code establishes the procedures for rendering of these permits and allows the DCA to enter into agreements with local governments to exempt certain classes or types of permit from its review. [Note: The most current DCA-County agreement for permit exemptions is dated December 1, 2000.]

Procedures and Criteria for Removal of Designation

The Florida Department of Community Affairs is responsible for making recommendations to the Administration Commission for the removal of the Area of Critical State Concern designation. The statutes call for DCA to recommend removal of the designation to the Administration Commission, if it determines "that all local land development regulations and local comprehensive plans and administration of such regulations and plans are adequate to carrying out the legislative intent" spelled out in Section 380.0552(2), and the Principles for Guiding Development in Section 380.0552(7), F.S.

The statutes require the DCA to make a determination annually whether or not the designation is recommended to be removed. If the DCA determines that ACSC designation should be removed and the Administration Commission concurs, the Administration Commission has 45 days from receipt of the recommendation to initiate rulemaking.

The legislative intent and Principles for Guiding Development are rather broad policy statements, which have been further defined through final orders resulting from administrative hearings and rules enacted by the Administration. The requirement that this action be done through rulemaking opens the process up to challenge from special interest groups. Therefore, the determination of whether or not the County has met the threshold criteria for the removal of ACSC designation is not a simple issue and certainly subject to interpretation and debate.

Pros and Cons of Designation

The pros and cons of continuing designation as an Area of Critical State Concern (ACSC) are organized into the following five broad issue areas: state funding and other assistance; special legislation affecting ACSCs; governance; intergovernmental cooperation; planning and development permitting.

State Funding and Other Assistance

Pros: ACSC designation has provided for or, at least facilitated more State funding for Keys projects in the form of special set-asides, higher point criteria for competitive grants or special appropriations. Although the total dollar amounts are unavailable, the staff has identified over \$38 million in State planning and construction funding to implement the 2010 Comprehensive Plan, since the plan went into effect in January 1996. The designation provides a legislative intent and policy basis for the provision and coordination of state programs and technical assistance to the Florida Keys.

Cons: Without the ACSC designation, the legislative intent and policy rationale for much of the State's funding and technical assistance to the Keys evaporates, which may lead to reductions in the level of State funding assistance and other technical assistance and programs from the State to implement the comprehensive plan.. However, with the sluggish economy and the State budget crises, continued State financial assistance should not be presumed even with ACSC designation.

Changes have already occurred in State funding programs that affect the County, such as the loss of dedicated funding that was available under the Florida Preservation 2000 Act.

Discussion: The ACSC designation places responsibility on the State for ensuring that the fragile environmental and natural resources of the Keys are adequately protected through the appropriate comprehensive plan and land development regulations and the administration of these plans and regulations. Designation places certain legal obligations on the State and its agencies to assist the County to implement its comprehensive plan.

Although it is unknown to what degree designation as an ACSC has helped the County to secure State funding assistance, it may be assumed that designation has had a positive impact. In reviewing State funding for various plans and projects to implement the Year 2010 Comprehensive Plan and its Seven Year Work Program, the staff has identified funding in the following amounts: wastewater and stormwater improvements and upgrades - \$15.0 million; wastewater and stormwater planning and engineering - \$2.6 million; Habitat Conservation Plan and Carrying Capacity Study - \$3.3 million; ROGO/Land Acquisition under the Florida Preservation Act 2000 - \$12.0 million; Florida Community Trust ACSC grants for acquisition of environmental and recreational lands - \$4.7 million; and Florida Community Trust statewide competitive grant for acquisition of recreational lands with ACSC areas receiving priority - \$0.7 million.

It has enabled the County through its State Legislative delegation, in partnership with the DCA and the Governor's office, to obtain support in the Florida Legislature for increased appropriations for specific projects and programs to implement the County's comprehensive plan. The Seven Year Work Program enacted by Administration Commission rulemaking along with various Executive Orders from the Governor's office have established a State policy rationale supporting such appropriations and directing state agencies to coordinate efforts to assist the County.

However, retaining the designation does not mean the County can necessarily continue to expect financial assistance from the State that match or exceed historic levels. With a sluggish economy and the State budget crises, fewer State funds will be made available to the County, even with continued designation. Furthermore, it may be argued that some of the funds provided by the State may not have been necessarily for programs or projects that the County would necessarily have conducted if it had not been for mandates placed on the County by the Administration Commission and administrative law judge.

Changes have already occurred in special funding programs. For example, under the Florida Preservation 2000 Act, the County was guaranteed \$3.0 million annually for four years for acquisition of private lands for purposes of conservation, recreation, and retirement of development rights. This program has been replaced by the Florida Forever Act, which does not guarantee any annual funding to the County; it does provide a 5 point bonus for County projects competing with other projects for these funds.

Removal of the designation would reduce the obligations and responsibilities of the State of Florida to address growth management issues facing the Keys. The underlying State statutory

framework that facilitates and provides for State assistance would be absent; however, it is not entirely certain that the County would witness any significant reduction in State funding assistance.

The removal of designation does not make the Florida Keys less important as a national treasure with sensitive environmental and natural resources that must be balanced with the constitutional rights of property owners, which is a basis of why the State designated the Keys as an ACSC in 1979. The County will continue to require outside financial assistance as the County does not have the financial capabilities to handle these challenging issues on its own.

Special ACSC Legislation

Pros: Special legislation for Areas of Critical State Concern has benefited Monroe County, such as (a) the flexibility provided in use of discretionary infrastructure sales tax receipt; (b) authority to impose discretionary tourist impact tax, and, (c) the authority to establish the Monroe County Land Authority.

Cons: The loss of designation would eliminate flexibility in the use of infrastructure sale tax receipts, eliminate the discretionary tourist tax, and eliminate the statutory authority for the Monroe County Land Authority.

Discussion: As an ACSC jurisdiction, Section 212.055(2)(g), F.S., allows the County to use up to ten percent of the proceeds from the infrastructure sales tax for any public purpose. Non-ACSC jurisdictions of greater than 50,000 population may only use these funds for capital projects. Funding of capital projects includes planning, engineering, and design costs associated with a capital project.

Under Section 125.0108, F.S., any jurisdiction with an ACSC designation that has an established land authority pursuant to Section 380.0663, F.S., may levy by ordinance a tourist impact tax. Fifty percent of the proceeds from this tax go to the Land Authority and fifty percent to the County's General Fund to off-set loss of property taxes. [The total amount of funds generated annually for the County from this tax is approaching two million.]

The designation of the Florida Keys as an ACSC has allowed for the creation of the Monroe County Land Authority under Section 380.0661, F.S. The Land Authority has given the County increased flexibility and funding opportunities in acquiring conservation and recreation lands, addressing property rights, and providing for affordable housing.

If Monroe County were de-designated as an ACSC, the infrastructure sales tax receipts could not be used for non-capital public purposes and the tourist impact taxes would be lost. The restriction on use of infrastructure sales tax funds is not as significant an issue as the loss of the tourist impact tax. The loss of these sales tax receipts would have significant impacts on the Land Authority and County's budget. The County would need to pursue substitute amending or substitute legislation to the loss of this source of revenue.

De-designation raises legal issues of whether or not the Monroe County Land Authority could continue in its present form without changes in current laws or reconfiguration under other statutory authority. It is an issue that must be satisfactorily resolved prior to any change in the designation status.

Governance

Pros: The ACSC designation has focused the attention of the Governor and Cabinet, state agencies, and numerous environmental interest groups on critical Key's issues resulting in increased cooperation among state agencies and increased State technical and financial assistance. The responsibility of the State through DCA and the Governor and Cabinet for growth management issues in the Keys may limit to some degree the County's legal and financial exposure to takings claims and provides some insulation to the County Commission from having to take responsibility for unpopular regulations or development decisions.

Cons: The ACSC designation places accountability for ultimate growth management decisions in Tallahassee rather than with elected officials at the local level. It provides the Administration Commission the authority to enact rules that supplement, replace, or supercede the County's comprehensive plan and land development regulations without the need or benefit of local public input or support and cooperation from the County. This rulemaking process is open to influence from numerous State agencies and interest groups, especially as rules are subject to challenge under Chapter 120, F.S. The rulemaking process results in mandates being placed on the County, which raises concerns regarding the level of legal liability that the County is being exposed to in regards to takings claims.

Discussion: Designation has focused the attention of the Governor and Cabinet, state agencies, and numerous environmental interest groups on critical Key's issues and the County's comprehensive plan. This high level visibility has resulted in increased cooperation among State agencies and increased technical and financial assistance to the Keys.

Designation has placed ultimate responsibility for the County's critical growth management decisions with DCA and the Administration Commission which reduces the County Commission's accountability for growth management issues and regulations. This lack of full accountability allows locally elected officials to replace responsibility for any unpopular regulation or development decision on the State.

The State's responsibility for critical growth management decisions in the Keys may help reduce the County's legal exposure and liability for takings claims. As the ACSC designation provides the Administration Commission and DCA full authority to oversee the County's comprehensive plan and land development regulations and their administration, this statutory authority also implies that the State bears some level of responsibility both financial and legal for the ramifications of implementing these same plans and regulations.

However, the designation also provides the Administration Commission authority through rulemaking to supplement, replace, or supercede the County's comprehensive plan and land

development regulations. Where the County has been unable or unwilling to adopt comprehensive plan amendments or land development regulations recommended by DCA, state agencies, interest groups, or the orders of an administrative law judge, the Administration Commission can, and has enacted through rule making, amendments to the comprehensive plan and land development regulations.

This rule making process is heavily influenced by DCA, other state agencies, and influential interest groups, especially as any rules enacted or proposed by the Administration Commission are subject to challenge under Chapter 120. It has taken the ultimate responsibility for decisions affecting growth management away from local elected officials and places it with officials who are not directly accountable to the Monroe County electorate.

The County is obligated to administer and enforce these amendments to the plan and regulations enacted by the Commission. If it does not follow any orders or rules established by the State for the Florida Keys ACSC, the State has administrative remedies under Section 380.11, as well as ability to institute sanctions under Chapter 163.

This process has resulted in numerous mandates being placed on the County without the support or participation, at times, of the County, raising serious concerns by County legal counsel about the level of legal liability and its financial implications for such decisions have placed on the County. [Note: Since 1989, the Administration Commission has promulgated rule making six times that has either changed the comprehensive plan or land development regulations or both.]

Cons: The ASCS designation requires that the comprehensive plan and any plan amendments be reviewed by the DCA for consistency with the Principles for Guiding Development. ASCS jurisdictions are not permitted to submit more than two comprehensive plan packages per year to the DCA. Any land development regulation and any amendments thereto are subject to approval or rejection by the DCA and must be consistent with the Principles for Guiding Development.

Discussion: All Florida jurisdictions are required to submit their comprehensive plan or comprehensive plan amendments to the DCA for compliance review under Chapter 163, F.S.; however, under ACSC designation any plan or plan amendment must be consistent with the Principles for Guiding Development. This consistency requirement with a much broader set of "mom and apple pie" principles provides increased opportunities for appeals, denials, and challenges from the DCA and intervening groups.

ACSC designated jurisdictions are only allowed to submit two comprehensive plan amendment packages to the DCA per year and are not allowed to submit small scale development plan amendments as permitted in Section 163.3187(c), F.S. This provision in the Florida Statutes allows non-ACSC jurisdictions to submit small scale development plan amendments (10 acres or less in size with a density of 10 units per acre or less) at any time, not to exceed 80 acres in cumulative total acreage annually in addition to the submittal of the two comprehensive plan amendment packages

In addition only an adoption hearing is required for each amendment, not a transmittal hearing which is required for other types of amendments. This requirement reduces the approval times for small scale plan amendments by at least four months.

Under the ACSC designation, all land development regulations and amendments require submittal to DCA for approval or rejection. Jurisdictions outside of ACSC designation are not subject to this approval process, which reduces the ability of the County to efficiently and effectively respond to local needs. It increases the uncertainties for Monroe County, especially as the DCA has been less than consistent in its approvals or rejections of amendments to the land development regulations proposed by the County compared to other jurisdictions within the Florida Keys ACSC.

Intergovernmental Cooperation

Pros: The responsibility and authority of the DCA and Administration Commission under the ACSC designation ostensibly ensures each local government's plans and regulations are coordinated and consistent with each other. This State authority is important in a county where all the jurisdictions are linked together by a single hurricane evacuation route and where the impacts of each local government's land use and growth management decisions are not solely confined within the boundaries of that jurisdiction.

Cons: The DCA's decisions have been inconsistent when reviewing and approving local plans and regulations. Other than affordable housing issues, the State has not played as effective leadership role as it should under Chapter 380, F.S., to facilitate intergovernmental cooperation on growth management issues in the Florida Keys ACSC.

Discussion: As the County and its municipalities move forward to implement the results of the hurricane evacuation study and the Carrying Capacity Study, the DCA and Administration Commission have the authority and responsibility to ensure the proper coordination of each jurisdiction's plans and to facilitate intergovernmental cooperation to resolve inter-jurisdictional growth management issues

Although the State has attempted to take the lead in coordinating local governments plans and regulations, it has not been very successful to date in addressing the major intergovernmental issues. Outside of affordable housing and establishment of a task force to address implementing the results of the Carrying Capacity Study, the focus of the DCA has been on individual jurisdictions and individual permits, rather than the "big picture."

With removal of the ACSC designation, the County would be left only with the intergovernmental provisions of Chapter 163, F.S., which has not proven to be a very effective or productive framework for intergovernmental cooperation on growth management issues. Unless the County and its municipalities are able to reach consensus, the staff is concerned that the County may be left more vulnerable to legal challenges and taking claims, as a great preponderance of sensitive environmental lands and vested, buildable platted lots are located within unincorporated Monroe County, not the incorporated areas.

Planning and Permitting

Pros: At this stage in the County's development, no positive advantages for the County are readily apparent to support the continuing the DCA oversight of County permitting and other development orders as provided for ACSC under Chapter 380, F.S.

Cons: ACSC designation provides authority to the DCA to approve or appeal all local development orders, which has increased the costs of permitting by 25% or more. It adds further uncertainty to an already complex permitting system for the County and permit applicants.

Discussion: ACSC designation has significantly increased the costs of the permitting process and increased the time it takes for permits or development orders to become effective. The staff conservatively estimates that DCA oversight in the permitting process may add an additional 25 percent or more to the overall costs to do permitting. It unnecessarily adds costs and uncertainty to the permitting process for the staff, contractors and property owners and has contributed to County staff's, contractors,' and permit applicants' frustration with the DCA.

At this point in the County's evolutionary development, the DCA's review of individual permits provides little benefit to the County. Although this process may occasionally identified mistakes in permitting, this oversight is a costly anarchism and only contributes further complexity in an already too complex regulatory environment.

The County has recruited and retained a highly trained and educated staff and has little need for any State oversight in the area of permitting. Even if such oversight were needed, DCA lacks a sufficient number of trained and experienced professional staff to provide competent oversight and does not have the budget to recruit and retain such a staff.

Very importantly it detracts the County staff's energy and resources from pressing forward to solve broader, longer-term growth management issues by requiring the staff to spend time justifying its decisions on individual permits to the DCA. Rather than focusing its efforts on reviewing individual permits, what the County really needs from DCA is assistance on reaching consensus with the municipalities on a cooperative long-term strategy for addressing growth management issues.

Conclusions

In the long run, the benefits to the County from removal of the ACSC designation clearly outweigh any positive benefits to keep the designation. The County needs to regain control of its own destiny for growth management issues with far less State oversight and intrusion.

De-designation would further improve the efficiency and cost savings in the planning and permitting process. It would also simplify the plan and land development regulations amendment process and provide more flexibility to the County in making small scale plan amendments.

However, removal of the designation is not without its downside. The County's statutory authority for the imposition of the tourist impact tax and establishment of the Land Authority would be removed. The County would need to seek legislative remedies to address this issue.

Although it is uncertain about the extent of the impact of de-designation upon State financial and technical assistance to the County, it is probable that it will have some negative impact even though the need for such assistance will not go away. The County will still be dependent upon State funding and technical assistance to successfully implement the wastewater and stormwater master plans and its Smart Growth/Tier System, which will require expenditure of tens of millions of dollars for land acquisition and retirement of development rights.

The decrease in the State oversight responsibility with de-designation raises concerns about intergovernmental coordination and increased risks of more legal exposure for the County resulting from the implementation of its comprehensive plan. These issues need to be satisfactorily addressed prior to any removal of the designation.

An argument may be made that the County has already met all the criteria for removal of the ACSC de-designation; however, the staff believes the outstanding issues in the Work Program related to implementation of the Carrying Capacity Study and the Sanitary Wastewater Master Plan make State support very unlikely at this juncture.

On the other hand, the following serious concerns have been identified regarding the impacts of de-designation on special legislation: need for continued State financial support and an increased commitment from the State as to its legal and financial responsibilities to assist the County in implementing its comprehensive plan; and the loss of a DCA leadership role to help local governments cooperatively address long-term growth management issues. Therefore, the County staff believes that it is neither practical nor prudent to petition for an immediate removal of the designation at this time.

However, recognizing the strides that have been made by the County over the last 15 years and the County Commission's commitment to addressing the growth management challenges facing the Keys, the staff believes it is a very appropriate time, in collaboration with the DCA, to begin the transition process to the eventual removal of the designation. The transition process should provide the framework for the County and State to identify the specific actions and conditions for removal of designation and address post-ACSC designation issues and actions for full implementation of the County's Smart Growth/Tier System.

A multi-year transition process would allow for the timely elimination or reduction of some of the most inefficient and unproductive aspects of designation, such as permitting review. At the same it would enable the County to continue to benefit from the positive aspects of designation for a period of time until de-designation issues are satisfactorily resolved and de-designation status may be finally achieved.

Recommendation

It is recommended that Monroe County explore with DCA and the Governor's office entering into negotiations to develop a memorandum of understanding (MOU) to identify the conditions which must be met for removal of the ACSC designation and to establish a plan and schedule of actions for the transition of the County to a non-ACSC designation, including addressing transition and post-ACSC designation issues raised in this report.

Attachment

380.0552 Florida Keys Area; protection and designation as area of critical state concern.—

(1) **SHORT TITLE.**—This section may be cited as the "Florida Keys Area Protection Act."

(2) **LEGISLATIVE INTENT.**—It is hereby declared that the intent of the Legislature is:

(a) To establish a land use management system that protects the natural environment of the Florida Keys.

(b) To establish a land use management system that conserves and promotes the community character of the Florida Keys.

(c) To establish a land use management system that promotes orderly and balanced growth in accordance with the capacity of available and planned public facilities and services.

(d) To provide for affordable housing in close proximity to places of employment in the Florida Keys.

(e) To establish a land use management system that promotes and supports a diverse and sound economic base.

(f) To protect the constitutional rights of property owners to own, use, and dispose of their real property.

(g) To promote coordination and efficiency among governmental agencies with permitting jurisdiction over land use activities in the Florida Keys.

(3) **RATIFICATION OF DESIGNATION.**—The designation of the Florida Keys Area as an area of critical state concern, the boundaries of which are described in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, is hereby ratified.

(4) **REMOVAL OF DESIGNATION.**—The state land planning agency, following July 15, 1990, shall recommend to the Administration Commission the removal of the designation specified in subsection (3) if it determines that all local land development regulations and local comprehensive plans and the administration of such regulations and plans are adequate to protect the Florida Keys Area and continue to carry out the legislative intent incorporated in subsection (2) and are in compliance with the principles for guiding development incorporated in subsection (7). If the Administration Commission concurs with the recommendations of the state land planning agency to remove the designation, it shall, within 45 days of receipt of the recommendation, initiate rulemaking to remove the designation. The state land planning agency shall thereafter make said determination annually, until such time as the designation is removed.

(5) **APPLICATION OF THIS CHAPTER.**—Section 380.05(1)-(5), (9)-(11), (15), (17), and (21) shall not apply to the area designated by this section for so long as the designation remains in effect. Except as otherwise provided in this section, s. 380.045 shall not apply to the area designated by this section. All other provisions of this chapter shall apply, including s. 380.07.

(6) **RESOURCE PLANNING AND MANAGEMENT COMMITTEE.**—The Governor, acting as the chief planning officer of the state, shall appoint a resource planning and management committee for the Florida Keys Area with the membership as specified in s. 380.045(2). Meetings shall be called as needed by the chair or on the demand of three or more members of the committee. The committee shall:

(a) Serve as a liaison between the state and local governments within Monroe County.

(b) Develop, with local government officials in the Florida Keys Area, recommendations to the state land planning agency as to the sufficiency of the Florida Keys Area's comprehensive plan and land development regulations.

(c) Recommend to the state land planning agency changes to state and regional plans and

regulatory programs affecting the Florida Keys Area.

(d) Assist units of local government within the Florida Keys Area in carrying out the planning functions and other responsibilities required by this section.

(e) Review, at a minimum, all reports and other materials provided to it by the state land planning agency or other governmental agencies.

(7) **PRINCIPLES FOR GUIDING DEVELOPMENT.**—State, regional, and local agencies and units of government in the Florida Keys Area shall coordinate their plans and conduct their programs and regulatory activities consistent with the principles for guiding development as set forth in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, which chapter is hereby adopted and incorporated herein by reference. For the purposes of reviewing consistency of the adopted plan or any amendments to that plan with the principles for guiding development and any amendments to the principles, the principles shall be construed as a whole and no specific provision shall be construed or applied in isolation from the other provisions. However, the principles for guiding development as set forth in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, are repealed 18 months from July 1, 1986. After repeal, the following shall be the principles with which any plan amendments must be consistent:

(a) To strengthen local government capabilities for managing land use and development so that local government is able to achieve these objectives without the continuation of the area of critical state concern designation.

(b) To protect shoreline and marine resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat.

(c) To protect upland resources, tropical biological communities, freshwater wetlands, native tropical vegetation (for example, hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and their habitat.

(d) To ensure the maximum well-being of the Florida Keys and its citizens through sound economic development.

(e) To limit the adverse impacts of development on the quality of water throughout the Florida Keys.

(f) To enhance natural scenic resources, promote the aesthetic benefits of the natural environment, and ensure that development is compatible with the unique historic character of the Florida Keys.

(g) To protect the historical heritage of the Florida Keys.

(h) To protect the value, efficiency, cost-effectiveness, and amortized life of existing and proposed major public investments, including:

1. The Florida Keys Aqueduct and water supply facilities;
2. Sewage collection and disposal facilities;
3. Solid waste collection and disposal facilities;
4. Key West Naval Air Station and other military facilities;
5. Transportation facilities;
6. Federal parks, wildlife refuges, and marine sanctuaries;
7. State parks, recreation facilities, aquatic preserves, and other publicly owned properties;
8. City electric service and the Florida Keys Electric Co-op; and
9. Other utilities, as appropriate.

(i) To limit the adverse impacts of public investments on the environmental resources of the Florida Keys.

(j) To make available adequate affordable housing for all sectors of the population of the Florida Keys.

(k) To provide adequate alternatives for the protection of public safety and welfare in the event of a natural or manmade disaster and for a postdisaster reconstruction plan.

(l) To protect the public health, safety, and welfare of the citizens of the Florida Keys and maintain the Florida Keys as a unique Florida resource.

(8) **COMPREHENSIVE PLAN ELEMENTS AND LAND DEVELOPMENT REGULATIONS.**—The comprehensive plan elements and land development regulations approved pursuant to s. 380.05(6), (8), and (14) shall be the comprehensive plan elements and land development regulations for the Florida Keys Area.

(9) **MODIFICATION TO PLANS AND REGULATIONS.**—Any land development regulation or element of a local comprehensive plan in the Florida Keys Area may be enacted, amended, or rescinded by a local government, but the enactment, amendment, or rescission shall become effective only upon the approval thereof by the state land planning agency. The state land planning agency shall review the proposed change to determine if it is in compliance with the principles for guiding development set forth in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, and shall either approve or reject the requested changes within 60 days of receipt thereof. Further, the state land planning agency, after consulting with the appropriate local government, may, no more often than once a year, recommend to the Administration Commission the enactment, amendment, or rescission of a land development regulation or element of a local comprehensive plan. Within 45 days following the receipt of such recommendation by the state land planning agency, the commission shall reject the recommendation, or accept it with or without modification and adopt it, by rule, including any changes. Any such local development regulation or plan shall be in compliance with the principles for guiding development.

History.—s. 6, ch. 79-73; s. 4, ch. 86-170; s. 1, ch. 89-342; s. 641, ch. 95-148.